IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.745 OF 2005

IN

SUIT NO.3537 OF 2004

Quadricon Pvt. Ltd. ...Plaintiff.

Vs.

Shri.Bajrang Alloys Ltd. ...Defendant

Mr.Parag P. Patil i/b. Thakoredas & Madgaonkar for Plaintiff.

Mr.A.S.Doctor i/b. Dhruve Liladhar & Co, for Defendant in support.

CORAM: D.K.DESHMUKH, J.

DATED: 26th April,2006

P.C.:-

1. This is a notice of motion taken out by the defendant. The learned Counsel appearing for defendant himself states that he is not pressing prayer clause (a) of Notice of motion. By prayer clause (b), the defendant is claiming declaration

that this Court does not have jurisdiction to try the present suit and he is also praying for return of the plaint to the plaintiff under Order 7 Rule 10 of the Code of Civil Procedure.

2. So far as this Court granting declaration, the Civil Court has power to pass decree of declaration but there cannot be interim decree of declaration, and therefore, there is no question of this Court making decree of declaration by an interim order. So far as the question of returning of plaint to the plaintiff is concerned, the plaint can be returned to the plaintiff only if the plaintiff makes an application to the Court for return of plaint. At the request of defendant, plaint cannot be returned to the plaintiff. The notice of motion is totally misconceived. It is rejected.